

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

City of Columbus, Ohio, :

Plaintiff, : Case No. 2:08-cv-0172

v. : JUDGE GRAHAM

Harriett Mann, et al., :

Defendants. :

ORDER

This matter is before the Court on the objection filed by defendants, Sidney and Yvonne Lewis, to the Magistrate Judge's Report and Recommendation dated May 28, 2008. Pursuant to an initial screening under 28 U.S.C. §1915, the Magistrate Judge recommended that this action be remanded to the Franklin County Municipal Court, Environmental Division.

When objections are received to a magistrate judge's report and recommendation on a dispositive matter, the district judge "shall make a de novo determination of any portion of the magistrate judge's disposition to which specific written objection has been made...." Fed. R. Civ. P. 72(b). After review, the district judge "may accept, reject, or modify the recommended decision, receive further evidence, or recommit the matter to the magistrate judge with instructions." Id.; see also 28 U.S.C. §636(b) (2)(B). For the following reasons, the objection will be dismissed and this case will be remanded.

The Lewises, two of the named defendants in this action, filed a notice of removal with this Court on February 22, 2008. Because they also requested to proceed in forma pauperis, the

Magistrate Judge conducted an initial screening pursuant to 28 U.S.C. §1915. During the screening process, the Magistrate Judge found that the removal of this specific action had already been addressed in Case No. 2:07-cv-0287 by order filed June 19, 2007. In that case the Court found that remand was appropriate because, among other reasons, no federal question was presented on the face of the complaint. Noting that the basic facts remained unchanged, and that a federal court's decision on an issue of jurisdiction is binding on parties who seek a second adjudication based on the same set of facts, the Magistrate Judge recommended that the request to proceed in forma pauperis be denied and that this case be remanded.

In their current filing, the Lewises challenge the Magistrate Judge's finding that no federal question is presented by the complaint. In support of this objection, the Lewises contend that, as a result of activity in Mr. Lewis's bankruptcy proceeding, this Court has acquired "exclusive supplemental jurisdiction" over the state court action. This is essentially the same argument the Lewises offered in support of their second removal attempt. See Amended Petition for Removal (doc. #3). This argument properly was rejected by the Magistrate Judge.

Because the Lewises fail to raise any new arguments or issues in their objection, this Court, after a de novo review, will adopt the Magistrate Judge's Report and Recommendation in its entirety. See Kittle v. State of Ohio, 2006 WL 2128908 at *1 (S.D. Ohio July 27, 2006) (citing Howard v. Secretary of Health and Human Services, 932 F.3d 505, 509 (6th Cir. 1991)). Accordingly, the Lewis's objection is overruled.

Based on the foregoing, the Court overrules the Lewis's objection and adopts the Magistrate Judge's Report and Recommendation (doc. #9) in its entirety. Accordingly, the request to proceed in forma pauperis is denied. Further, this case is REMANDED to the Franklin County Municipal Court, Environmental Division.

Date: June 17, 2008

s\James L. Graham

James L. Graham
United States District Judge